

1 CHARLES THOMPSON (SBN 67803)
2 DARIN T. JUDD (SBN 160475)
3 LIPPENBERGER, THOMPSON, WELCH,
4 SOROKO & GILBERT LLP
5 201 Tamal Vista Boulevard
6 Corte Madera, California 94525
7 Telephone: (415) 421-5300
8 Facsimile: (415) 421-0225

6 Attorneys for Plaintiffs
7 JOSEPH T. NORTON, BUFFINGTON &
ASSOCIATES, INC., dba, SALES SERVICE WEST,
and CSA WEST, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

10 JOSEPH T. NORTON; BUFFINGTON &) Case No.: 3:05-cv-03601-CRB
11 ASSOCIATES, INC., d/b/a SALES)
12 SERVICE WEST; and CSA WEST, INC.,)
13 Plaintiffs,)
14 vs.)
15 CSA SERVICES, INC.; WALT)
16 McCONNELL; FRED LANIER; and DOES)
17 1 through 20, inclusive,)
Defendants.)
)

STIPULATED MOTION

19 Pursuant to 28 U.S.C. 1406(a), CLR 7-12, and the stipulation below, the parties move this
20 court for an order transferring this case to the United States District Court for the District of South
21 Carolina, Columbia Division.

POINTS AND AUTHORITIES

23 28 U.S.C. 1406(a) provides that if a civil action is commenced in the wrong district or
24 division, the court may, in the interest of justice, transfer the case to any district or division in which
25 the case could have been brought.

26 | //

The contract at issue in this case includes a forum selection clause identifying York County, South Carolina as the proper forum for actions involving the contract. Plaintiffs originally filed this case in California state court, in Alameda County. Defendants removed the case to federal court on the basis of diversity jurisdiction and Defendant CSA Services, Inc., filed a Motion to Dismiss for Improper Venue, in which Defendants Walt McConnell and Fred Lanier joined in the alternative to their Motion to Dismiss for Lack of Personal Jurisdiction. The parties have agreed to transfer this case to the District Court for the District of South Carolina. Because the parties agree to the transfer, and because transfer would avoid the necessity of filing a new lawsuit in South Carolina, justice would be served by the court granting this motion.

STIPULATION

Expressly reserving all rights, objections and defenses, and without waiver of any right, objection or defense, including, but not limited to, Defendants Walt McConnell and Fred Lanier's defense that this court lacks personal jurisdiction, the parties stipulate as follows:

14 1) There being no federal court division in York County, South Carolina, the parties stipulate
15 to an order transferring this case to the United States District Court for the District of South Carolina,
16 Columbia Division; and

17 2) If this Stipulated Motion is Granted, Defendants agree to withdraw their Motions to
18 Dismiss currently pending before this court.

20 DATED: October 7, 2005 By: /S/ Jared Gardner
21 Jared E. Gardner
Attorney for Defendants

22 DATED: October 4, 2005 By: /S/ Darin T. Judd
23 Darin T. Judd
Attorney for Plaintiffs

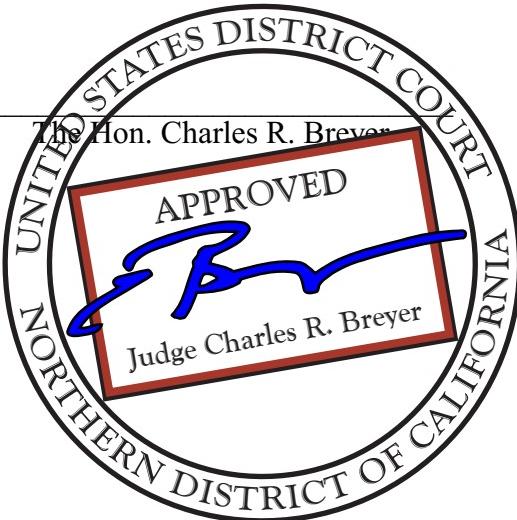
25

1 **[PROPOSED] ORDER**

2 PURSUANT TO STIPULATION, IT IS ORDERED that this case be transferred to the
3 United States District Court for the District of South Carolina, Columbia Division.

4
5 DATED: October 12, 2005

6 By:



7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26